

Appln. No. 10/767,523  
Amendment dated June 8, 2005  
Reply to Office Action mailed March 22, 2005

### REMARKS

Reconsideration is respectfully requested.

Claims 1 through 7 and 9 through 15 remain in this application. Claim 8 has been cancelled. Claims 16 through 18 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

### Paragraphs 1 through 3 of the Office Action

Claims 1, 3, 4, 8, 9, 14 and 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by Jones.

Claims 1 through 3, 10 and 14 have been rejected under 35 U.S.C. §102(b) as being anticipated by Jones.

In regard to claim 1, it is submitted that the Jones reference does not disclose, teach or suggest "said plurality of legs including a pair of back legs, each of said back legs being pivoted to extend from a respective corner of the base portion towards a center of said base portion when in said collapsed position, each of said back legs extend from the respective corner towards a diametrically positioned corner such that said back legs converge towards said center of said base portion when said back legs are in said collapsed position". The Jones reference teaches a folding chair that fails to teach each of the back legs extending from the respective corner towards a diametrically positioned corner so that the back legs converge towards the center of the base portion when the back legs are in the collapsed position as claimed by the applicant. Therefore, it is submitted that the Jones reference would not lead one to anticipate the combination of features as claimed by the applicant.

Claims 2 through 4, 9, 10, 14 and 15 are dependent upon claim 1, particularly as amended, and therefore incorporate the requirements of claim 1. Thus, claims 2 through 4, 9, 10, 14 and 15 are also believed to be allowable over the cited reference.

Appln. No. 10/767,523

Amendment dated June 8, 2005

Reply to Office Action mailed March 22, 2005

Claim 8 has been cancelled.

Withdrawal of the §102(b) rejection of claims 1, 3, 4, 8, 9, 14 and 15 is therefore respectfully requested.

Withdrawal of the §102(b) rejection of claims 1 through 3, 10 and 14 is therefore respectfully requested.

**Paragraphs 4 and 5 of the Office Action**

Claims 4 through 9 and 11 through 13 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Thomas in view of Chen.

It is submitted that the combination of Thomas with Chen is not suggested by the prior art, and even if such a combination were to be made, one would not be led to the combination of features recited in applicants' claims. In particular, the references do not disclose, teach or suggest "said plurality of legs including a pair of back legs, each of said back legs being pivoted to extend from a respective corner of the base portion towards a center of said base portion when in said collapsed position, each of said back legs extend from the respective corner towards a diametrically positioned corner such that said back legs converge towards said center of said base portion when said back legs are in said collapsed position". The Thomas reference teaches a collapsible chair that fails to teach each of the back legs extending from the respective corner towards a diametrically positioned corner so that the back legs converge towards the center of the base portion when the back legs are in the collapsed position as claimed by the applicant. The Chen reference teaches a folding chair that fails to teach each of the back legs extending from the respective corner towards a diametrically positioned corner so that the back legs converge towards the center of the base portion when the back legs are in the collapsed position as claimed by the applicant. It is also submitted that the mere fact that one may argue that the prior art is capable of being modified to achieve a claimed structure does not by itself make the claimed structure obvious--

Appln. No. 10/767,523

Amendment dated June 8, 2005

Reply to Office Action mailed March 22, 2005

there must be a motivation provided by the prior art, and that motivation is totally lacking in the reference.

The examiner finds the claimed shape would have been obvious urging that (our emphasis) "it is obvious for one skilled in the art to form each hook base of any desired shape \*\*\* since *this is within the capabilities of such a person.*" Thus, the examiner equates that which is within the capabilities of one skilled in the art with obviousness. Such is not the law. There is nothing in the statutes or the case law which makes "that which is within the capabilities of one skilled in the art" synonymous with obviousness.

The examiner provides no reason why, absent the instant disclosure, one of ordinary skill in the art would be motivated to change the shape of the coil hooks of Hancock or the German patent and we can conceive of no reason.

Ex parte Gerlach and Woerner, 212 USPQ 471 (PTO Bd. App. 1980)

(emphasis in original).

Therefore, it is submitted that the combination of the Thomas reference with the Chen reference would not lead one to the combination of features as claimed by the applicant.

Claims 4 through 7, 9 and 11 through 15 are dependent upon claim 1, particularly as amended, and therefore incorporate the requirements of claim 1. Thus, claims 4 through 7, 9 and 11 through 15 are also believed to be allowable over the cited reference.

Claim 8 has been cancelled.

Withdrawal of the §103(a) rejection of claims 4 through 9 and 11 through 13 is therefore respectfully requested.

#### New Claims:

New claims 16 through 18 have been added to vary the scope of the claims and clarify the present invention. All limitations are supported by the original disclosure including the specification, drawings and original claims. Claim 16 incorporates the limitations of claims amended claim 1 and claim 2 through 7 and 9 through 13 and as discussed above the references

Appln. No. 10/767,523

Amendment dated June 8, 2005

Reply to Office Action mailed March 22, 2005

fail to teach each of the back legs extending from the respective corner towards a diametrically positioned corner so that the back legs converge towards the center of the base portion when the back legs are in the collapsed position as claimed by the applicant therefore it is believed that new claim 16 is in condition for allowance. Claim 17 and 18 incorporate the limitations of claims 14 and 15, respectively, and are dependent on claim 16. Therefore, no new matter has been added. The new claims are believed to be allowable.

### CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

LEONARD & PROEHL, Prof. L.L.C.

By 

Date: 6-8-05

Robert K. Huck (Reg. No. 45,761)

LEONARD & PROEHL, Prof. L.L.C.

3500 South First Avenue Circle, Suite 250

Sioux Falls, SD 57105-5807

(605)339-2028 FAX (605)336-1931